IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.191 of 2000

Between:

C.Ramesh S/o.Vittalaiah, Hindu, aged 45 years,
Occupation: Tanker owner, R/o.Zaheerabad, Medal District.

..... PETITIONER

AND

The Joint Collector, Medak District at Sangareddy.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate Writ declaring the proceedings of the respondent herein bearing No.CS.A/168/99 dated 28.12.99 as illegal, arbitrary and unjust and consequently direct the respondent to drop all further proceedings against the petitioner in this regard.

Counsel for the Petitioner: MR.N.SIVA REDDY

Counsel for the Respondent: GP FOR CIVIL SUPPLIES

The Court made the following:

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ORDER:

The petitioner is the owner of Tanker bearing No.AP 23/T 3465. He also obtained Registration Certificate under A.P.Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 (hereafter called 'the Control Order'). The petitioner hired the vehicle to M/s.Chidri Vittalaiah, wholesale dealer of Indian Oil Corporation. On 16.12.1999, the Inspector of Police (Vigilance Cell), Civil Supplies Department, seized the vehicle along with the stock for violation of provisions under the Control Order and the Essential Commodities Act, 1955. He approached the Joint Collector, the respondent herein, and made a representation on 18.12.1999 for release of the vehicle. The respondent, without considering his representation, by impugned proceedings dated 28.12.1999 suspended the Registration Certificate of the petitioner purporting to exercise the power under Clause 28(2) of the Control Order. It is now contended that the alleged irregularities, if any, committed by M/s.Chidri Vittalaiah, the petitioner is nothing to do with its business except hiring his vehicle to it, and that without there being any action under Section 28(1) of the Control Order, the suspension of Registration Certificate under Section 28(2) of the Control Order is illegal and unsustainable.

In **Narasimha Oil Supplies, IOC v. Joint Collector, West Godavari**, I have dealt with this aspect of the matter. It was observed therein that:

> Sub-clause (1) of Clause 28 empowers the authority to cancel or suspend the licence or registration certificate of a dealer of petroleum products, if he contravenes the provisions of the Control Order. No order of cancellation/suspension can however be passed unless licensee or the holder of registration certificate has been given a reasonable opportunity of representing his case in writing and also giving a personal hearing to the licensee or dealer. Clause 28(2) empowers the authority to pass an order of interim suspension if (i) there is action pending under sub-clause (1) and (ii) if for reasons to be recorded in writing the authority decides that licence or certificate of registration is required to be cancelled/suspended.

Yet again it was observed:

> In a given case issue of a show cause notice as per proviso to Clause 28(1) could be sufficient to show that action was initiated and pending under Clause 28(1). The same is not done and not even a show cause notice was issued. Straightaway, the impugned order was passed ignoring the mandatory requirement of Clause 28(2). Further, the authority is required to record reasons in writing. A reading of the impugned orders would show that no reasons are recorded by the Joint Collector except saying that in the circumstances reported by the Deputy Superintendent of Police/Inspector of

Police ...., the impugned orders of suspension is being passed.

Applying the principles as above, it becomes clear that the impugned order is wholly unsustainable and accordingly, the writ petition is allowed.

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(V.V.S.RAO,J)

09.06.2005

YS

Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the acting Chief Justice on this Thursday, the Nineth day of June, 2005.

To

1. The Joint Collector, Medak District, at Sangareddy.

2. Two CCs to the Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad. (OUT)

3. Two C.D. Copies.